

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ABILITY INSURANCE COMPANY,  Plaintiff,  v. ST PAPER, LLC,  Defendant.	Case No. 1:20-cv-03851-GBD
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**SECOND DECLARATION OF JONATHAN T. SMIES**

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I, Jonathan T. Smies, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am one of the attorneys representing the Defendant ST Paper, LLC (“ST Paper”) in this matter. I make this declaration based on my own personal knowledge and my review of the file in this matter.

2. Attached hereto as **Exhibit A** is a true and correct copy of a pleading entitled “Defendant Ability Insurance Company’s Brief in Support of its Motion to Dismiss,” filed on May 8, 2019 by Ability Insurance Company in the case of *Oconto Falls Tissue, Inc. v. ST Paper, LLC et al.*, Case No. 17 CV 104 (Wis. Cir. Ct., Oconto Cty.).

3. Attached hereto as **Exhibit B** is a true and correct copy of the Amended Complaint and Exhibits C and D to the same filed on March 8, 2019 by Oconto Falls Tissue, Inc. in the case of *Oconto Falls Tissue, Inc. v. ST Paper, LLC et al.*, Case No. 17 CV 104 (Wis. Cir. Ct., Oconto Cty.).

4. Attached hereto as **Exhibit C** is a true and correct copy of the Answer to the Amended Complaint filed by ST Paper, LLC on March 28, 2019 in the case of *Oconto Falls Tissue, Inc. v. ST Paper, LLC et al.*, Case No. 17 CV 104 (Wis. Cir. Ct., Oconto Cty.).

5. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from the transcript of the deposition of Sharad Tak taken on May 18, 2021.

6. Attached hereto as **Exhibit E** is a document marked as Exhibit 28 at the May 18, 2021 deposition of Sharad Tak.

7. Attached hereto as **Exhibit F** is a true and correct copy of the Expert Report of Benjamin A. Thorp dated December 20, 2020 filed by ST Paper, LLC in opposition to Oconto Falls Tissue, Inc.'s Motion for Summary Judgment in the case of *Oconto Falls Tissue, Inc. vs ST Paper, LLC et al.*, Case No. 17 CV 104 (Wis. Cir. Ct., Oconto Cty.). ST Paper, LLC produced this document to Ability in this litigation.

8. Attached hereto as **Exhibit G** is a true and correct copy of the Second Affidavit of Sharad Tak filed in the case of *Oconto Falls Tissue, Inc. vs ST Paper, LLC et al.*, Case No. 17 CV 104 (Wis. Cir. Ct. Oconto Cty.). ST Paper, LLC produced this document to Ability in this litigation.

9. Attached hereto as **Exhibit H** are true and correct copies of documents produced by ST Paper, LLC to Ability in this litigation marked ST PAPER 1245 – ST PAPER 1628.

Dated this 10<sup>th</sup> day of September, 2021.

*Electronically signed by Jonathan T. Smies*

Jonathan T. Smies